

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Requests for Waiver of Decisions of the)	
Universal Service Administrator by)	
)	
Central Technology Center)	File Nos. SLD-785992, <i>et al.</i>
Drumright, Oklahoma, <i>et al.</i>)	
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	

To: Secretary, Federal Communications Commission

PETITION FOR RECONSIDERATION

Pursuant to Section 1.106 of the Federal Communications Commission’s (“FCC” or “Commission”) rules,¹ the Board of Education of the City of Chicago (“Chicago Public Schools” or “CPS”) respectfully requests the Wireless Competition Bureau (“WCB” or “Bureau”) to reconsider its denial of CPS’s request for review of USAC’s decision to deny CPS funding under the schools and libraries universal service support mechanism, also known as the “E-rate” program, for funding year 2011.² As set forth more fully below, the Bureau’s denial is contrary to Commission precedent, would result in undue hardship to CPS and the students it serves, and would undermine the central purpose of the E-rate program. Accordingly, CPS respectfully asks

¹ 47 C.F.R. § 1.106.

² See Requests for Waiver of Decisions of the Universal Service Administrator by Central Technology Center Drumright, Oklahoma, *et al.*, File Nos. SLD-785992, *et al.*; Schools and Libraries Universal Support Mechanism, CC Docket No. 02-6, *Order*, DA 12-732 (rel. May 9, 2012) (“*WCB Order*”). For purposes of this petition, “USAC” refers to the Universal Service

the Bureau to grant this petition, waive section 54.503(c)(4) of its rules to the extent necessary,³ and remand the underlying application to USAC for further processing in accordance with the Bureau's directives. In remanding CPS's funding request to USAC, the Bureau should clarify that waiver of section 54.503(c)(4) is applicable to all funding requests for the funding years referenced in the Form 470 that USAC used as the basis for denying CPS eligible E-rate funding (including funding years 2011, 2012, and 2013), and make clear that USAC should not deny CPS's future requests for funding on the grounds that such Form 470 is deficient.

I. STATEMENT OF INTEREST AND RELEVANT FACTS

CPS is the third largest school district in the United States. For the fiscal year 2011-12, CPS schools educated more than 404,000 students, 87% of whom are from low-income households.⁴ The school system operates twenty-eight organizational areas over 675 locations, including elementary schools (Pre-K–4), middle schools (5–8), high schools (9–12), alternative learning centers, various support centers (maintenance, transportation, records, etc.), and administrative offices, employing more than 43,000 individuals.

Under the E-rate program, eligible schools, libraries, and consortia may apply for discounts for eligible telecommunications services, Internet access, and internal connections.⁵ With an annual budget of over \$5 billion, CPS relies heavily on the E-rate program to provide advanced telecommunications and internal connections technologies to its students and help close the digital

Administrative Company Schools and Libraries Division.

³ 47 C.F.R. 503(c)(4).

⁴ See Chicago Public Schools: Stats and Facts, at http://www.cps.edu/About_CPS/At-a-glance/Pages/Stats_and_facts.aspx.

⁵ 47 C.F.R. §§ 54.501, 54.502.

divide throughout the city of Chicago, while meeting its budgetary constraints. Since 1998, CPS has received over \$400 million of E-rate funds, and generally qualifies for discounts of between 70% and 90% on eligible services.

On September 15, 2010, CPS filed a completed and certified Form 470 application to USAC seeking discounts for certain eligible E-rate services.⁶ Pursuant to Section 54.503(c) of the Commission's rules, the Form 470 included a request for proposal ("RFP") that included "sufficient information to enable bidders to reasonably determine the needs of" CPS.⁷ On October 14, 2010, three different vendors submitted competitive bids to CPS, each committing to provide all of the services described under the RFP.

On March 24, 2011, after selecting and receiving services from one of the three vendors that responded to its RFP, CPS submitted a Form 471 to USAC seeking 2011 E-rate funds in the amount of \$554,852.16 for Internal Connection services.⁸ However, on February 14, 2012, USAC denied CPS's E-rate funding request because the underlying Form 470 only listed services for Basic Maintenance, and did not specifically request Internal Connections services.⁹ As described

⁶ See Form 470 Application No. 750890000853166.

⁷ 47 C.F.R. § 54.503(c); see Request for Proposals for Telecommunications Wiring/Cabling, Non-Mitel Voice System Maintenance, Technical Programming and Support Services for the Board of Education of the City of Chicago, Specification No. 10-250045 (Sept. 15, 2010) ("*RFP*"), at Attachment 1.

⁸ See Form 471 Application No. 819303 (FRN 2229423).

⁹ See Letter from Universal Service Administrative Company, Schools and Libraries Division, to Pamela D. Flowers, Chicago Public Schools (Feb. 14, 2012), at Attachment 2. "Internal Connections" are "components located at the applicant site that are necessary to transport information to classrooms, publicly accessible rooms of a library, and to eligible administrative areas or buildings." USAC, Schools and Libraries Universal Support Mechanism Eligible Services List for Funding Year 2012, 12, *available at* http://www.usac.org/_res/documents/sl/pdf/ESL_archive/EligibleServicesList-2012.pdf.

further below, when CPS completed Block 2 of the Form 470 (“Summary Description of Needs or Services Requested”), it mistakenly identified Item 11 (“Basic Maintenance of Internal Connections”) as the only service category required by CPS. By mere oversight, CPS did not also select Item 10 (“Internal Connections Other than Basic Maintenance”).¹⁰ This ministerial and clerical error caused USAC to deny CPS’s funding request.

On March 6, 2012, CPS timely filed an appeal with the Commission seeking review of USAC’s funding denial.¹¹ As CPS explained on appeal, although it had mistakenly failed to select Internal Connections as a service category on its Form 470, that error was ministerial and clerical in nature and did not stifle competition for CPS’s requested services for several reasons: (1) although the Form 470 mistakenly omitted a reference to Internal Connections, the associated RFP included a full description of each service sought by CPS and invited potential vendors to submit competitive bids for the provision of such services (including Internal Connections service); (2) CPS has consistently relied upon the RFP to advertise its required services, and potential bidders know this is the case; and (3) three potential vendors submitted bids in response to the RFP—the same number of competitive bids that CPS has received in prior E-rate service requests.¹² Additionally, CPS explained that because the RFP was posted for 28 days, it satisfied the FCC’s competitive bidding requirements for eligible E-rate funding.¹³ Accordingly, CPS asked the Bureau to determine that it did not violate the E-rate filing rules, or in the alternative, to

¹⁰ See CPS Form 470, Block 2.

¹¹ See Letter from Anthony Mcphearson, Acting Chief Information Officer, Chicago Public Schools, to Marlene Dortch, Secretary, Federal Communications Decision (Mar. 6, 2012) (“*CPS Appeal*”).

¹² *Id.* at 1.

waive the applicable E-rate rules in light of the Commission's longstanding precedent of finding that ministerial and clerical errors do not stifle competition and merit the denial of an E-rate funding request.¹⁴

On May 9, 2012, the Bureau denied CPS's appeal.¹⁵ Without discussing the facts presented by CPS's request, the Bureau concluded that CPS did not demonstrate "that good cause exists to justify waivers of the Commission's rules."¹⁶ CPS timely files this petition seeking reconsideration of that decision.

II. DISCUSSION

Granting this petition for reconsideration is warranted under the circumstances. USAC's denial of CPS's 2011 E-rate funding request, based on a ministerial and clerical error contained in the underlying Form 470, foreclosed essential public funds on which CPS relies to provide essential telecommunications services to students throughout its school system. Because strict adherence to Section 54.503(c)(4) in this case would be inequitable to CPS and substantially undermine the public interest, the Commission should grant this petition, waive Section 54.503(c)(4) with respect to the underlying Form 470 (for funding years 2011-2013), and remand CPS's funding request to USAC for further consideration on the merits. Granting such relief would not only serve the public interest by facilitating access of telecommunications services in schools and libraries, but also align with prior Commission decisions holding that ministerial and clerical errors are not an adequate basis for the denial of E-rate funding.

¹³ *Id.*

¹⁴ *Id.* at 2.

¹⁵ *WCB Order* ¶ 2.

A. Applicable Law

The Commission may waive any provision of its rules for good cause shown,¹⁷ and where the particular facts make strict compliance of the underlying rule inconsistent with the public interest.¹⁸ The Commission may also grant a waiver in consideration of the hardship that will accrue to the party seeking waiver absent relief from the applicable rule, or to more effectively implement Commission policy.¹⁹ Moreover, in granting a petition for reconsideration, the Commission (or the designated authority) has wide latitude in crafting relief, and may (i) reverse or modify the order from which reconsideration is sought, (ii) remand the matter to other Commission personnel for further proceedings, or (iii) order such other proceedings “as may be necessary or appropriate.”²⁰

B. The Commission Has Consistently Found That Ministerial and Clerical Errors in E-Rate Application Forms Do Not Justify Denial of Funding Requests.

The Commission has consistently found that ministerial or clerical errors in E-rate applications and form submissions are not an adequate basis for USAC’s denial of E-rate funding requests.²¹ Central to this longstanding policy is the Commission’s reasoning that ministerial and

¹⁶ *Id.*

¹⁷ 47 C.F.R. §1.3.

¹⁸ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (“*Northeast Cellular*”).

¹⁹ *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972); *see also Northeast Cellular*, 897 F.2d at 1166 (concluding that waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule).

²⁰ 47 C.F.R. § 1.106(k)(1).

²¹ *See, e.g., Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School, New Orleans, LA, et al.*, File Nos. SLD-487170, *et al.*; Schools and

clerical errors do not skew the competitive bidding process for E-rate services, and do not constitute evidence of waste, fraud, or abuse of the E-rate program. For example, in 2007, the Commission found good cause to waive what is now Section 54.503(c)(4) after USAC denied E-rate funding because of various ministerial and clerical mistakes made by the petitioners in their respective Form 470s (including failure to indicate that the contract would be for multiple years or would have a voluntary renewal provision).²² In granting the waiver, the Commission emphasized

Libraries Universal Service Support Mechanism, CC Docket No. 02-6, *Order*, 21 FCC Rcd 5316, FCC 06-54 (rel. May 19, 2006) (“*Bishop Perry*”); Application for Review of the Decision of the Universal Service Administrator by Aberdeen School District, Aberdeen, WA, *et al.*, File No. SLD-297249, *et al.*; Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, *Order*, 22 FCC Rcd 8757, FCC 07-63 (rel. May 8, 2007) (“*Aberdeen School District*”); Requests for Review of Decision of the Universal Service Administrator by Brewster Academy, Dallas, TX, *et al.*, File No. SLD-317937, *et al.*; Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, *Order*, 22 FCC Rcd 9185, DA 07-2111 (rel. May 18, 2007) (“*Brewster Academy*”); Request for Review of a Decision of the Universal Service Administrator by School Administrative District 67, Lincoln, ME, File No. SLD-457458; Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, *Order*, 21 FCC Rcd 9267, DA 06-1653 (rel. Aug. 18, 2006) (“*District 67*”); Request for Review of a Decision of the Universal Service Administrator by Albert Lea Area Schools, Albert Lea, Minnesota, *et al.*, File No. SLD-517274, *et al.*; Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, *Order*, 24 FCC Rcd 4533, DA 09-825 (rel. Apr. 14, 2009) (“*Albert Lea*”); Requests for Review of a Decision of the Universal Service Administrator by Riverdale Unified School District, Riverdale, CA, File No. SLD-595033; Cherokee County School District, Murphy, NC, File No. SLD-624508, CC Docket No. 02-6, *Order*, 26 FCC Rcd 11207, DA 11-1370 (rel. Aug. 8, 2011) (“*Riverdale*”); Request for Waiver of Form 470 Requirements Re: Voluntary Contract Extension Designation by California State E-Rate Coordinator, CC Docket No. 96-45; Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, *Order*, 25 FCC Rcd 16119, DA 10-2217 (rel. Nov. 23, 2010) (“*California State*”); Requests for Waiver and Review of Decisions of the Universal Service Administrator by Ann Arbor Public Schools, Ann Arbor, MI, *et al.*, File Nos. SLD-542873, *et al.*; Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, 25 FCC Rcd 17319, DA 10-2354 (rel. Dec. 16, 2010) (“*Ann Arbor*”); Requests for Review of Decisions of the Universal Service Administrator by Delano Joint Union High School District, Delano, CA, File No. SLD-319862; CityRoots, Inc., Bakersfield, CA, File No. SLD-319862; Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6, *Order*, DA 08-2362 (rel. Oct. 30, 2010).

²² See *Aberdeen School District*, 22 FCC Rcd at 8762-63 ¶ 9.

that such Form 470 errors did not skew the competitive bidding process or manifest evidence of waste, fraud or abuse.²³ It further explained that “[t]he goal of the competitive bidding process is to ensure that funding is not wasted because an applicant agrees to pay a higher price than is otherwise commercially available,” and that the ministerial and clerical errors provided “no indication” that the petitioners “benefited from their mistakes or that any service provider was harmed.”²⁴ As a result, the Commission concluded that the “policy underlying” the applicable E-rate application rules “was not compromised due to [the] errors.”²⁵ The Bureau has adopted this same reasoning. For example, just last year, in remanding USAC’s decision to deny funding because of application mistakes, the Bureau found that, despite the petitioners’ failure to correctly submit their respective Forms 470, potential vendors received enough information to identify the desired services and formulate bids.²⁶ Central to the Bureau’s decision was the fact that “all bidders were on a level playing field,” as well as the absence of any evidence of “waste, fraud, or abuse.”²⁷

In determining whether to grant a waiver and remand of USAC funding denials based on ministerial or clerical error, the Bureau has considered whether the accompanying RFP includes accurate contractual terms and information regarding the scope of service. For example, in 2010, the Bureau granted waiver relief for a petitioner that had failed to properly indicate the term of the contract in the underlying Form 470 (an omission the Commission deemed a ministerial and

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*; see also *Albert Lea*, 24 FCC Rcd at 4537-38 ¶ 6.

²⁶ *Riverdale*, 26 FCC Rcd at 1121-11 ¶ 9.

²⁷ *Id.*

clerical error).²⁸ Essential to the Bureau’s finding of good cause in that case was the fact that the RFP accompanying the Form 470 clearly and accurately stated the proposed contractual terms, and therefore “bidders were fully aware” of the contract scope.²⁹ That holding reaffirmed that strict enforcement of the rules governing E-rate funding requests may not be warranted if the facts demonstrate that potential vendors were on equal footing and the competitive bidding process was preserved. Moreover, the decision should figure prominently in the Bureau’s resolution of this petition, as the facts closely parallel the facts now at hand—although CPS’s Form 470 mistakenly did not include all of the eligible services it sought, its accompanying RFP did. Consequently, the Bureau should again find that all prospective bidders were equally aware of the contract scope, as it did in *California State*, and that CPS’s ministerial and clerical error did not negatively impact the competitive bidding process.

The Commission has also granted waiver relief where the actual competitive process that occurred after the applicant filed a Form 470 materially resembled the process that was intended by the Commission’s rules. For example, in *Brewster Academy*, the Commission reviewed USAC’s decision to deny E-rate funding because the applicants mistakenly indicated on the underlying E-rate forms that they were seeking telecommunications services from providers that did not qualify as common carriers.³⁰ The Commission found good cause for waiver existed in that case because, even though the service provider information listed on the form was incorrect, the applicants in fact sought service from eligible common carrier providers during the subsequent

²⁸ See *California State*.

²⁹ *Id.*, 25 FCC Rcd at 16119 ¶ 5.

³⁰ See *Brewster Academy*, 22 FCC Rcd at 9189 ¶ 9.

bidding process.³¹ As a result, the information on the applicable E-rate form *had no bearing* on the conduct of the applicants or the prospective vendors during the ensuing bidding process, which the Commission found was in line with the bidding process intended by the E-rate regulatory framework. Again, this decision should bear substantial weight in the Bureau’s resolution of the instant petition. Although CPS committed a ministerial and clerical error in submitting its Form 470, the bidding process that resulted was as competitive as the bidding process that followed from CPS’s prior E-rate service requests (where no ministerial or clerical errors existed), as described further below.

The Commission’s aversion for funding denials due to ministerial and clerical errors has also stemmed from the Commission’s reverence for, and desire to preserve, the purpose of Section 254 of the Communications Act and the E-rate funding mechanism—to promote and enhance access to advanced telecommunications and information services for public school and libraries. In this regard, the Commission has reasoned that denial of a funding request under such circumstances (*i.e.*, when an applicant’s mistake did not skew the competitive bidding process) would jeopardize the provision of advanced telecommunications service to schools and libraries, thereby undermining the principal objective of the E-rate program. This consideration was pivotal in the Commission’s 2006 *Bishop Perry* order granting the appeals of 196 separate decisions by USAC to deny E-rate funding “due to certain clerical or ministerial errors in the application.”³² In that decision, the Commission explained that it was granting the petitioners’ waiver requests in light of “the purposes of section 254,” and that excusing ministerial and clerical errors was more

³¹ *Id.*

³² See *Bishop Perry*, 21 FCC Rcd at 5319-20 ¶ 9.

appropriate in the E-rate context because it would allow the applicants to “receive the opportunity for . . . funding where previously it was denied for minor errors” and therefore “further the goals of section 254.”³³ Preserving the objectives of Section 254 has remained a prominent factor in the Bureau’s E-rate decisions. For example, in *Brewster Academy*, the Bureau explained that “strict adherence to certain E-rate rules and requirements that are ‘procedural’ in nature does not promote the goals of section 254 of the Act—ensuring access to discounted telecommunications and information services to schools and libraries—and therefore does not serve the public interest.”³⁴

C. CPS Committed a Ministerial and Clerical Error on its Form 470.

The Commission’s precedent also makes clear that CPS’s oversight in identifying the Internal Connections service category when it submitted its Form 470 to USAC constitutes a ministerial or clerical error for which waiver of Section 54.503(c)(4) is appropriate. In granting waiver petitions from other E-rate applicants, the Bureau has deemed a wide variety of filing omissions and mistakes to be “ministerial” or “clerical” in nature, and therefore subject to a lower threshold for obtaining a waiver. For example, in 2010, the WCB granted 38 appeals of decisions by USAC from schools and libraries seeking to correct “errors” on their E-rate application forms, including the following:

- Entering the wrong contract dates;
- Erroneously characterizing the purchase and installation of equipment as a recurring service;

³³ *Id.* at 5319-20 ¶ 9. The Commission further explained that this lowered threshold for relief from funding denial based on minor application errors may not be applicable in other contexts. *Id.*

³⁴ *Brewster Academy*, 22 FCC Rcd at 9189-90 ¶ 10; *see also Aberdeen School District*, 22 FCC Rcd at 8758 ¶ 3 (noting that waiver relief will promote Section 254 “by helping to ensure that eligible schools and libraries obtain access to discounted telecommunications and information services”); *District 67*, 21 FCC Rcd at 9269 ¶ 4 (finding that waiver relief from ministerial errors will promote the statutory requirements of section 254).

- Selecting the wrong term or service;
- Selecting the wrong category of service on the Form 471;
- Describing the service to be purchased as for the entire school district, when it was only intended to serve a single elementary school;
- Omitting a service from a service substitution request; and
- Failing to submit a complete application.³⁵

In granting these waiver requests, the Bureau deemed each of these errors as “ministerial” or “clerical.” If the foregoing omissions and mistakes fall within the Bureau’s definition of “ministerial” or “clerical” errors, then CPS’s mistake in not selecting the Internal Connections service category on its Form 470—even though the associated RFP fully described each E-rate service sought by CPS—certainly falls within the scope of those definitions.

D. CPS’s Form 470 Error Did Not Negatively Impact the Competitive Bidding Process.

CPS’s ministerial and clerical mistake had no material impact on the competitive bidding process, for several reasons. First, although the Form 470 did not expressly identify the need for Internal Connections services, the RFP that CPS released in connection with the Form 470 adequately and comprehensively identified the services that CPS sought, and invited vendors to submit competitive bids for the provision of all such services, including Internal Connections. For example, Section II of the RFP described the scope of services sought as follows:

For the purposes of telecommunications services, the Proposer will be responsible for maintaining voice/data cabling infrastructure, non-Mitel voice system maintenance, data drops, and MAC (“Moves, Adds and Changes”) orders to support the Board’s non-Mitel premise-based communications system. This includes, but is not limited to, all common equipment, all station equipment, all necessary wiring (low voltage cable), all necessary cabling (UTP, fiber Coax, T1 extensions, etc.) and all related components. Occasionally, power services may be required. The Proposer will provide replacement parts (conduit, jacks, cable, equipment, etc.) necessary for maintenance and/or upgrades to infrastructure

³⁵ *See Ann Arbor*, at 17319 ¶ 1.

and/or telecommunications systems. Factory reconditioned parts are acceptable for analog, digital and IP telephone sets.³⁶

In addition to providing this service request overview, Section II of the RFP explained that the chosen vendor would be required to install, relocate, and test telecommunications equipment and facilities, including Internal Connections (as described by USAC).³⁷ Consequently, as CPS previously noted, “[a]ny interested bidder would have reviewed the RFP and clearly known the services CPS was interested in procuring.”³⁸

Second, the actual bidding process that followed CPS’s submission of Form 470 was competitive. On October 14, 2010, CPS received responsive bids from three service providers: Quantum Crossings, LLC; Blackwell Consulting Services (in partnership with Greatline Communications); and the Bonaparte Corporation. This number of vendor responses equals the number of responses received by CPS when it last sought E-rate service bids in 2005 (where no ministerial or clerical errors were made in the applicable Form 470).³⁹ Moreover, the responding vendors clearly understood the full scope of E-rate services sought by CPS, as each vendor committed to provide all of the services sought by CPS—including Internal Connections services—even though the Form 470 did not include a request for Internal Connections service. These facts plainly demonstrate that the bidding process remained competitive despite CPS’s

³⁶ *RFP* at 5.

³⁷ *Id.* at 8.

³⁸ *CPS Appeal* at 1. Additionally, the Form 470 itself described the solicited E-rate services as including “telecommunications wiring/cabling,” in addition to “non-Mitel voice system maintenance” and “technical programming and support services.” *See* CPS Form 470, Block 2, Item 11(c). Thus, even though the Form 470 only identified basic maintenance, the description of services in that category could have reasonably alerted potential service providers that the scope of services would extend beyond basic maintenance.

ministerial and clerical error on Form 470.

The number of responsive bids that CPS received for E-rate services not only evidences that the Form 470 error had no material impact on the competitive bidding process, but also reflects the importance of the RFP in soliciting E-rate services. Likewise, it demonstrates that service providers understand the nature of the RFP as describing the E-rate services more comprehensively than the relatively condensed Form 470. In fact, in CPS's experience, most service providers do not rely solely upon the Form 470 service descriptions when determining whether to submit bids to a E-rate applicant, but rather look to the RFP for that purpose. For this reason, CPS—a longtime eligible participant in the E-rate program—has consistently relied more heavily upon the RFP than the Form 470 to advertise the E-rate services that it wishes to receive.

CPS also notes that the risk of a reduced or less robust competitive bidding process as a result of the Form 470 clerical error was never substantial because most of the vendors that provide Basic Maintenance service also provide Internal Connections service.⁴⁰ Consequently, a nearly identical pool of service providers would have responded to CPS's service request regardless of whether it sought Basic Maintenance service or Internal Connections service.

E. Granting This Petition Would Be Consistent With Commission Precedent, Promote the Objective of the E-Rate Program, and Serve the Public Interest

Because USAC's denial of CPS's request for E-rate funding resulted from a ministerial and clerical error—which had no material impact on the competitive bidding process for the eligible E-rate services that CPS sought, and did not give rise to any evidence of fraud, waste, or abuse—the Bureau should grant this petition, waive Section 54.503(c)(4), and remand the funding

³⁹ *Id.* at 2. Two of these vendors also responded to CPS's 2005 bid request.

request to USAC. Doing so would align with the Commission’s longstanding precedent, avoid the inequitable harm that would otherwise accrue to CPS if USAC’s denial stands, and promote and enhance access to advanced telecommunications and information services by students in the CPS system.

The facts presented in this case are consistent with those present in the Commission’s and Bureau’s prior decisions granting waiver relief where a minor procedural error in a USAC funding request did not skew the competitive bidding process for E-rate services or facilitate waste, fraud, or abuse of the E-rate program. Despite CPS’s clerical error on the applicable Form 470, the goal of the competitive E-rate bidding process—“to ensure that funding is not wasted because an applicant agrees to pay a higher price than is otherwise commercially available”⁴¹—was still met, as evidenced by CPS’s receipt of three service proposals from competing vendors. Moreover, as in *California State*, because the RFP accompanying the Form 470 contained complete and accurate information, it allowed potential bidders to be “fully aware” of the scope of service sought by CPS.⁴² Likewise, as in *Brewster Academy*, the actual bidding process that occurred after CPS filed its Form 470 was consistent with the competitive process that is intended by the Commission’s E-rate rules.⁴³ Accordingly, granting this petition and the requested relief would align with the Commission precedent and policy.

Rigid enforcement of USAC’s application procedures in this instance also “would not

⁴⁰ *Id.*

⁴¹ *Aberdeen School District*, at 8762-63 ¶ 9.

⁴² *California State*, 25 FCC Rcd at 16119 ¶ 5.

⁴³ *See Brewster Academy*, 22 FCC Rcd at 9189 ¶ 9.

further the purposes of section 254(h) or serve the public interest.”⁴⁴ Indeed, a denial of this petition “would inflict undue hardship”⁴⁵ by reducing the technology, connectivity, and educational opportunities for the neediest students served by CPS. It would also be technologically wasteful, economically harmful, and educationally disruptive, while hamstringing CPS’s ability to complete its installation of modern telecommunications services. Finally, overturning USAC’s denial would have only a minor impact on the funds available for E-rate services through the Universal Service Fund. Although CPS had requested funding in the amount of 554,852.16 for funding year 2011, based on more current invoice amounts, it now expects that figure to be less than \$300,000, or approximately .01% of the E-rate program funding cap for funding year 2011.⁴⁶ The Commission has previously overturned E-rate funding denials in part because their grant would “have minimal effect on the Universal Service Fund.”⁴⁷ Given the substantial harms that would result from not excusing a minor error in completing a Form 470, compared to the trivial costs that would follow from a remand of USAC’s funding denial, granting this petition for reconsideration would clearly serve the public interest.

III. CONCLUSION

Based on the foregoing, CPS requests that the Bureau grant this petition, waive section 54.503(c)(4) of its rules, and remand the underlying funding request to USAC for further processing in accordance with the Bureau’s order. In remanding the application to USAC, the

⁴⁴ *Bishop Perry*, 21 FCC Rcd at 5323, ¶ 14.

⁴⁵ *Id.*

⁴⁶ See Wireline Competition Bureau Announces E-Rate Inflation-Based Cap for Funding Year 2012, *Public Notice*, CC Docket No. 02-6, DA 12-791 (rel. May 18, 2012).

⁴⁷ See *Aberdeen School District* at 8760 ¶ 5 n.21.

Bureau should clarify that waiver of section 54.503(c)(4) should apply to all funding requests for the funding years referenced in the subject Form 470 (including funding years 2011, 2012, and 2013), and direct USAC to refrain from denying future requests for funding submitted by CPS on the grounds that such Form 470 is deficient. Absent such relief, CPS will face undue financial hardship, while the students served by CPS will have reduced access to advanced telecommunications service, contrary to the purpose of E-rate program.

Respectfully submitted,

/s/ Ari Q. Fitzgerald

Lachlan Tidmarsh
Chief Information Officer
Information & Technology Services
Chicago Public Schools
125 S. Clark Street, 3rd Floor
Chicago, IL 60603
(773) 553-3487

Ari Q. Fitzgerald
Christopher J. Termini
Hogan Lovells US LLP
555 13th Street, NW
Washington, D.C. 20004
(202) 637-5423
ari.fitzgerald@hoganlovells.com
christopher.termini@hoganlovells.com

Counsel to Chicago Public Schools

June 8, 2012

FCC Form

Approval by OMB
3060-0806**Attachment 1 - Form 470****470****Schools and Libraries Universal Service
Description of Services Requested
and Certification Form**

Estimated Average Burden Hours Per Response: 4.0 hours

This form is designed to help you describe the eligible telecommunications-related services you seek so that this data can be posted on the Fund Administrator website and interested service providers can identify you as a potential customer and compete to serve you.

Please read instructions before beginning this application.

(To be completed by entity that will negotiate with providers.)

Block 1: Applicant Address and Identifications**Form 470 Application Number:** 750890000853166**Applicant's Form Identifier:** FY11-470-NON-MITEL MAINT**Application Status:** INCOMPLETE**Posting Date:****Allowable Contract Date:****Certification Received Date:****1. Name of Applicant:**

CHICAGO PUBLIC SCHOOLS

2. Funding Year:

07/01/2011 - 06/30/2012

3. Your Entity Number

135749

4a. Applicant's Street Address, P.O.Box, or Route Number

125 S CLARK ST, 3RD FLOOR

City

CHICAGO

State

IL

Zip Code

60603

b. Telephone number

ext.

(773) 553- 1300

c. Fax number

(773) 553- 1368

5. Type Of Applicant

- ☐ Individual School (individual public or non-public school)
- ☒ School District (LEA;public or non-public[e.g., diocesan] local district representing multiple schools)
- ☐ Library (including library system, library outlet/branch or library consortium as defined under LSTA)
- ☐ Consortium (intermediate service agencies, states, state networks, special consortia of schools and/or libraries)

6a. Contact Person's Name: PAMELA D. FLOWERS

First, if the Contact Person's Street Address is the same as in **Item 4** above, check this box. If not, please complete the entries for the Street Address below.

6b. Street Address, P.O.Box, or Route Number

125 S CLARK ST, 3RD FLOOR

City

CHICAGO

State

IL

Zip Code

60603

Check the box next to your preferred mode of contact and provide your contact information. One box **MUST** be checked and an entry provided.

☒ **6c. Telephone Number** (773) 553- 1352☐ **6d. Fax Number** (773) 553- 1368☐ **6e. E-mail Address**

Block 2: Summary Description of Needs or Services Requested

7 This Form 470 describes (check all that apply):

a. ☐ Tariffed or month-to-month services to be provided without a written contract. A new Form 470 must be filed for non-contracted tariffed or month-to-month services for each funding year.

b. ☒ Services for which a new written contract is sought for the funding year in Item 2.
Check if you are seeking ☒ a multi-year contract and/or ☒ a contract featuring voluntary extensions

c. ☐ A multi-year contract signed on or before 7/10/97 but for which no Form 470 has been filed in a previous funding year.

NOTE: Services that are covered by a signed, written contract executed pursuant to posting of a Form 470 in a previous funding year OR a contract signed on/before 7/10/97 and previously reported on a Form 470 as an existing contract do NOT require filing of a new Form 470.

What kinds of service are you seeking: Telecommunications Services, Internet Access, Internal Connections Other than Basic Maintenance, or Basic Maintenance of Internal Connections? Refer to the Eligible Services List at www.sl.universalservice.org for examples. Check the relevant category or categories (8, 9, 10 and/or 11 below), and answer the questions in each category you select.

8 ☐ Telecommunications Services

Do you have a Request for Proposal (RFP) that specifies the services you are seeking ? If you check YES, your RFP must be available to all interested bidders for at least 28 days. If you check YES and your RFP is not available to all interested bidders, or if you check NO and you have or intend to have an RFP, you risk denial of your funding requests.

a. ☐ **YES**, I have released or intend to release an RFP for these services. It is available or will become available on the Web at or via (check one):
☐ the Contact Person in Item 6 or ☐ the contact listed in Item 12.

b. ☐ **NO**, I have not released and do not intend to release an RFP for these services.

Whether you check YES or NO, you must list below the Telecommunications Services you seek. Specify each service or function (e.g., local voice service) and quantity and/or capacity (e.g., 20 existing lines plus 10 new ones). See the Eligible Services List at www.sl.universalservice.org for examples of eligible Telecommunications services. Remember that only eligible telecommunications providers can provide these services under the universal service support mechanism. Attach additional lines if needed.

c. <input type="radio"/> Check this box if you prefer discounts on your bill.	<input type="radio"/> Check this box if you prefer reimbursement after paying your bill in full.	<input type="radio"/> Check this box if you do not have a preference.
--	---	--

9 ☐ Internet Access

Do you have a Request for Proposal (RFP) that specifies the services you are seeking ? If you check YES, your RFP must be available to all interested bidders for at least 28 days. If you check YES and your RFP is not available to all interested bidders, or if you check NO and you have or intend to have an RFP, you risk denial of your funding requests.

a. ☐ **YES**, I have released or intend to release an RFP for these services. It is available or will become available on the Web at or via (check one):
☐ the Contact Person in Item 6 or ☐ the contact listed in Item 12.

b. ☐ **NO**, I have not released and do not intend to release an RFP for these services.

Whether you check YES or NO, you must list below the Internet Access Services you seek. Specify each service or function (e.g., monthly Internet service) and quantity and/or capacity (e.g., for 500 users). See the Eligible Services List at www.sl.universalservice.org for examples of eligible Internet Access services. Attach additional lines if needed.

c. <input type="radio"/> Check this box if you prefer discounts on your bill.	<input type="radio"/> Check this box if you prefer reimbursement after paying your bill in full.	<input type="radio"/> Check this box if you do not have a preference.
--	---	--

10 ☐ Internal Connections Other than Basic Maintenance

Do you have a Request for Proposal (RFP) that specifies the services you are seeking ? If you check YES, your RFP

must be available to all interested bidders for at least 28 days. If you check YES and your RFP is not available to all interested bidders, or if you check NO and you have or intend to have an RFP, you risk denial of your funding requests.

a ☒ YES, I have released or intend to release an RFP for these services. It is available or will become available on the Web at or via (check one):
☐ the Contact Person in Item 6 or ☐ the contact listed in Item 12.

b ☒ NO, I have not released and do not intend to release an RFP for these services.

Whether you check YES or NO, you must list below the Internal Connections Services you seek. Specify each service or function (e.g., a router, hub and cabling) and quantity and/or capacity (e.g., connecting 1 classroom of 30 students). See the Eligible Services List at www.sl.universalservice.org for examples of eligible Internal Connections services. Attach additional lines if needed.

c ☒ Check this box if you prefer discounts on your bill.

☒ Check this box if you prefer reimbursement after paying your bill in full.

☒ Check this box if you do not have a preference.

11 ☒ Basic Maintenance of Internal Connections

Do you have a Request for Proposal (RFP) that specifies the services you are seeking? If you check YES, your RFP must be available to all interested bidders for at least 28 days. If you check YES and your RFP is not available to all interested bidders, or if you check NO and you have or intend to have an RFP, you risk denial of your funding requests.

a ☒ YES, I have released or intend to release an RFP for these services. It is available or will become available on the Web at **SEE ITEM 13A** or via (check one):
☐ the Contact Person in Item 6 or ☐ the contact listed in Item 12.

b ☒ NO, I have not released and do not intend to release an RFP for these services.

Whether you check YES or NO, you must list below the Basic Maintenance Services you seek. Specify each service or function (e.g., basic maintenance of routers) and quantity and/or capacity (e.g., for 10 routers). See the Eligible Services List at www.sl.universalservice.org for examples of eligible Basic Maintenance services. Attach additional lines if needed.

c ☒ Check this box if you prefer discounts on your bill.

☒ Check this box if you prefer reimbursement after paying your bill in full.

☒ Check this box if you do not have a preference.

Service or Function:

TELECOMMUNICATIONS WIRING/CABLING

Quantity and/or Capacity:

APPROX 700 SITES

NON-MITEL VOICE SYSTEME MAINTENANCE

APPROX 700 SITES

TECHNICAL PROGRAMMING AND SUPPORT SERVICES

APPROX 700 SITES

12 (Optional) Please name the person on your staff or project who can provide additional technical details or answer specific questions from service providers about the services you are seeking. This need not be the contact person listed in Item 6 nor the Authorized Person who signs this form.

Name:

Kathryn Zalewski

Title:

Telecommunications Director

Telephone number

(773) 553 - 3060

Fax number

(773) 553 - 3080

E-mail Address

klzalewski@cps.k12.il.us

13a. ☒ Check this box if there are any restrictions imposed by state or local laws or regulations on how or when service providers may contact you or on other bidding procedures. Please describe below any such restrictions or procedures, and/or provide a Web address where they are posted and a contact name and telephone number.

Contact the Department of Procurement and Contracts - Chicago Public Schools - 125 S. Clark Street 10th floor, Chicago, IL 60603/ (773) 553-2280 - For a downloadable copy of the RFP visit the Purchasing website at: http://www.csc.cps.k12.il.us/purchasing/bid_openings.html

☐ Check this box if no state and local procurement/competitive bidding requirements apply to the procurement of services sought on this Form 470.

13b. If you have plans to purchase additional services in future years, or expect to seek new contracts for existing services, you may summarize below (including the likely timeframes). If you are requesting services for a funding year for which a Form 470 cannot yet be filed online, include that information here.

Block 3: Technology Assessment

14. ☐ Basic telephone service only: If your application is for basic telephone service and voice mail only, check this box and skip to Item 16. Basic telephone service is defined as wireline or wireless single line voice service (local, cellular/PCS, and/or long distance) and mandatory fees associated with such service (e.g., federal and state taxes and universal service fees).

15. Although the following services and facilities are ineligible for support, they are usually necessary to make effective use of the eligible services requested in this application. Unless you indicated in Item 14 that your application is ONLY for basic telephone service, you must check one or both boxes in 15a through 15e. You may provide details for purchases being sought.

a. Desktop communications software: Software required ☒ has been purchased; and/or ☒ is being sought.

b. Electrical systems: ☒ adequate electrical capacity is in place or has already been arranged; and/or ☒ upgrading for additional electrical capacity is being sought.

c. Computers: a sufficient quantity of computers ☒ has been purchased; and/or ☒ is being sought.

d. Computer hardware maintenance: adequate arrangements ☒ have been made; and/or ☒ are being sought.

e. Staff development: ☒ all staff have had an appropriate level of training /additional training has already been scheduled; and/or ☒ training is being sought.

f. Additional details: Use this space to provide additional details to help providers to identify the ineligible services you desire.

Block 4: Recipients of Service

16. Eligible Entities That Will Receive Services:

Check the ONE choice (Item 16a, 16b or 16c) that best describes this application and the eligible entities that will receive the services described in this application. You will then list in Item 17 the entity/entities that will pay the bills for these services.

a. ☐ Individual school or single-site library.

b. ☐ Statewide application for (enter 2-letter state code) representing (check all that apply):

- ☐ All public schools/districts in the state:
- ☐ All non-public schools in the state:
- ☐ All libraries in the state:

If your statewide application includes INELIGIBLE entities, check here. ☐ **If checked, complete Item 18.**

c. ☐ School district, library system, or consortium application to serve multiple eligible entities:

Number of eligible entities	700
For these eligible sites, please provide the following	

Area Codes (list each unique area code)	Prefixes associated with each area code (first 3 digits of phone number) separate with commas, leave no spaces
773	534, 535, 553

17. Billed Entities

17. Billed Entities: List the entity/entities that will be paying the bills directly to the provider for the services requested in this application. These are known as Billed Entities. At least one line of this item must be completed. If a Billed Entity cited on your Form 471 is not listed below, funding may be denied for the funding requests associated with this Form 470.

Entity Number	Entity
135749	CHICAGO PUBLIC SCHOOLS

18. Ineligible Participating Entities

List the names of any entity/entities here for whom services are requested that are not eligible for the Universal Service Program.

Ineligible Participating Entity	Area Code	Prefix
---------------------------------	-----------	--------

Block 5: Certification

19. ☒ I certify that the applicant includes:(Check one or both.)

- a. ☒ schools under the statutory definitions of elementary and secondary schools found in the **No Child Left Behind Act of 2001, 20 U.S.C.Secs.7081(18) and (38)**, that do not operate as for-profit businesses, and do not have endowments exceeding \$50 million; and/or
- b. ☐ libraries or library consortia eligible for assistance from a State library administrative agency under the Library Services and Technology Act of 1996 that do not operate as for-profit businesses and whose budgets are completely separate from any school (including, but not limited to elementary and secondary schools, colleges, and universities).

20. ☒ I certify that all of the individual schools, libraries, and library consortia receiving services under this application are covered by technology plans that are written, that cover all 12 months of the funding year, and that have been or will be approved by a state or other authorized body, an SLD-certified technology plan approver, prior to the commencement of service. The plans were written at the following level(s):

- a. ☐ individual technology plans for using the services requested in the application; and/or
- b. ☒ higher-level technology plans for using the services requested in the application; or
- c. ☐ no technology plan needed; application requests basic local, cellular, PCS, and/or long distance telephone service and/or voice mail only

21. ☒ I certify that I will post my Form 470 and (if applicable) make my RFP available for at least 28 days before considering all bids received and selecting a service provider. I certify that all bids submitted will be carefully considered and the bid selected will be for the most cost-effective service or equipment offering, with price being the primary factor, and will be the most cost-effective means of meeting educational needs and technology plan goals. I certify that I will retain required documents for a period of at least five years after the last day of service delivered. I certify that I will retain all documents necessary to demonstrate compliance with the statute and Commission rules regarding the application for, receipt of, and delivery of services receiving schools and libraries discounts. I acknowledge that I may be audited pursuant to participation in the schools and libraries program.

22. ☒ I certify that the services the applicant purchases at discounts provided by 47 U.S.C. Sec. 254 will be used solely for educational purposes and will not be sold, resold, or transferred in consideration for money or any other thing of value, except as permitted by the Commission's rules at 47 C.F.R. Sec. 54.500(k). Additionally, I certify that the entity or entities listed on this application have not received anything of value or a promise of anything of value, other than the services and equipment sought by means of this form, from the service provider, or any representative or agent thereof or any consultant in connection with this request for services.

23. ☒ I acknowledge that support under this support mechanism is conditional upon the school(s) and/or library(ies) I represent securing access, separately or through this program, to all of the resources, including computers, training, software, internal connections, maintenance, and electrical capacity necessary to use the services purchased effectively. I recognize that some of the aforementioned resources are not eligible for support.

24. ☒ I certify that I am authorized to order telecommunications and other supported services for the eligible entity(ies). I certify that I am authorized to submit this request on behalf of the eligible entity(ies) listed on this application, that I have examined this request, and to the best of my knowledge, information, and belief, all statements of fact contained herein are true.

25. ☒ I certify that I have reviewed all applicable state and local procurement/competitive bidding requirements and that I have complied with them. I acknowledge that persons willfully making false statements on this form can be punished by fine or forfeiture, under the Commissions Act, 47 U.S.C. Secs. 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. Sec. 1001.

26. ☒ I acknowledge that FCC rules provide that persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the schools and libraries support mechanism are subject to suspension and debarment from the program.

27. Signature of authorized person: ☐

28. Date (mm/dd/yyyy):

29. Printed name of authorized person: **PAMELA D. FLOWERS**

30. Title or position of authorized person: **E-RATE PROGRAM MANAGER**

31a. Address of authorized person: **125 S CLARK ST**
3RD FLOOR
City: **CHICAGO** State: **IL** Zip: **60603**

31b. Telephone number of authorized person: **(773) 553 - 1352**

31c. Fax number of authorized person: **(773) 5531368**

31d. E-mail address number of authorized person: **pdflowers@cps.k12.il.us**

31e. Name of authorized person's employer: **CHICAGO PUBLIC SCHOOLS**

Service provider involvement with preparation or certification of a Form 470 can taint the competitive bidding process and result in the denial of funding requests. For more information, refer to the SLD web site at www.sl.universalservice.org or call the Client Service Bureau at 1-888-203-8100.

NOTICE: Section 54.504 of the Federal Communications Commission's rules requires all schools and libraries ordering services that are eligible for and seeking universal service discounts to file this Description of Services Requested and Certification Form (FCC Form 470) with the Universal Service Administrator. 47 C.F.R. § 54.504. The collection of information stems from the Commission's authority under Section 254 of the Communications Act of 1934, as amended. 47 U.S.C. § 254. The data in the report will be used to ensure that schools and libraries comply with the competitive bidding requirement contained in 47 C.F.R. § 54.504. All schools and libraries planning to order services eligible for universal service discounts must file this form themselves or as part of a consortium.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The FCC is authorized under the Communications Act of 1934, as amended, to collect the information we request in this form. We will use the information you provide to determine whether approving this application is in the public interest. If we believe there may be a violation or a potential violation of any applicable statute, regulation, rule or order, your application may be referred to the Federal, state, or local agency responsible for investigating, prosecuting, enforcing, or implementing the statute, rule, regulation or order. In certain cases, the information in your application may be disclosed to the Department of Justice or a court or adjudicative body when (a) the FCC; or (b) any employee of the FCC; or (c) the United States Government is a party of a proceeding before the body or has an interest in the proceeding. In addition, information provided in or submitted with this form or in response to subsequent inquiries may also be subject to disclosure consistent with the Communications Act of 1934, FCC regulations, the Freedom of Information Act, 5 U.S.C. § 552, or other applicable law.

If you owe a past due debt to the federal government, the information you provide may also be disclosed to the Department of the Treasury Financial Management Service, other Federal agencies and/or your employer to offset your salary, IRS tax refund or other payments to collect that debt. The FCC may also provide the information to these agencies through the matching of computer records when authorized.

If you do not provide the information we request on the form, the FCC may delay processing of your application or may return your application without action.

The foregoing Notice is required by the Paperwork Reduction Act of 1995, Pub. L. No. 104-13, 44 U.S.C. § 3501, et seq.

Public reporting burden for this collection of information is estimated to average 4 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing, and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the reporting burden to the Federal Communications Commission, Performance Evaluation and Records Management, Washington, DC 20554.

Please submit this form to:

**SLD-Form 470
P.O. Box 7026
Lawrence, Kansas 66044-7026
1-888-203-8100**

For express delivery services or U.S. Postal Service, Return Receipt Requested, mail this form to:

**SLD Forms
ATTN: SLD Form 470
3833 Greenway Drive
Lawrence, Kansas 66046
1-888-203-8100**

FCC Form 470
November 2004

Close Print Preview

FCC Form 470

Universal Service Program Description of Services Requested and Certification Form



Entity Number: 135749

**Applicant's Form Identifier: FY11-470-
NON-MITEL MAINT**

**Contact Person: PAMELA D.
FLOWERS**

Phone Number: (773)553-1352

FCC Form

Approval by OMB
3060-0806

Do not write in this area

470

Schools and Libraries Universal Service Program Description of Services Requested and Certification Form

Form 470 Application Number: 750890000853166

19. ☒ I certify that the applicant includes: (Check one or both)

- a. ☒ schools under the statutory definitions of elementary and secondary schools found in the **No Child Left Behind Act of 2001, 20 U.S.C Secs. 7801(18) and (38)**, that do not operate as for-profit businesses, and do not have endowments exceeding \$50 million; and/or**
- b. ☐ libraries or library consortia eligible for assistance from a State library administrative agency under the Library Services and Technology Act of 1996 that do not operate as for-profit businesses and whose budgets are completely separate from any school (including, but not limited to elementary and secondary schools, colleges and universities).**

20. ☒ I certify that all of the individual schools, libraries, and library consortia receiving services under this application are covered by technology plans that are written, that cover all 12 months of the funding year, and that have been or will be approved by a state or other authorized body, an SLD-certified technology plan approver, prior to the commencement of service. The plans were written at the following level(s):

- a. ☐ individual technology plans for using the services requested in the application; and/or**
- b. ☒ higher-level technology plans for using the services requested in the application; or**
- c. ☐ no technology plan needed; application requests basic local, cellular, PCS and/or long distance telephone service and/or voice mail only.**

21. ☒ I certify that I will post my Form 470 and (if applicable) make my RFP available for at least 28 days before considering all bids received and selecting a service provider. I certify that all bids submitted will be carefully considered and the bid selected will be for the most cost-effective service or equipment offering, with price being the primary factor, and will be the most cost-effective means of meeting educational needs and technology plan goals. I certify that I will retain required documents for a period of at least five years after the last day of service delivered. I certify that I will retain all documents necessary to demonstrate compliance with the statute and Commission rules regarding the application for, receipt of, and delivery of services receiving schools, and libraries discounts. I acknowledge that I may be audited pursuant to participation in the schools and libraries program.

22. ☒ I certify that the services the applicant purchases at discounts provided by U.S.C. Sec. 254 will be used solely for educational purposes and will not be sold, resold or transferred in consideration for money or any other thing of value, except as permitted by the Commission's rules at 47 C.F.R. Sec. 54.500(k).

Additionally, I certify that the entity or entities listed on this application have not received anything of value or a promise of anything of value, other than services and equipment sought by means of this form, from the service provider, or any representative or agent thereof or any consultant in connection with this request for services.

23. ☒ I acknowledge that support under this support mechanism is conditional upon the school(s) and/or library(ies) I represent securing access, separately or through this program, to all of the resources, including computers, training, software, internal connections, maintenance, and electrical capacity necessary to use the service purchased effectively. I recognize that some of the aforementioned resources are not eligible for support.

24. ☒ I certify that I am authorized to order telecommunications and other supported services for the eligible entity(ies). I certify that I am authorized to submit this request on behalf of the eligible entity(ies) listed on this application, that I have examined this request, and to the best of my knowledge, information, and belief, all statements of fact contained herein are true.

25. ☒ I certify that I have reviewed all applicable state and local procurement/competitive bidding requirements and that I have complied with them. I acknowledge that persons willfully making false statements on this form can be punished by the fine or forfeiture, under the Communications Act, 47 U.S.C. Secs. 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. Sec. 1001.

26. ☒ I acknowledge that FCC rules provide that persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the schools and libraries support mechanism are subject to suspension and debarment from the program.

27. Cert ID = 648331	28. Date 9/15/2010
29. Printed name of authorized person PAMELA D. FLOWERS	
30. Title or position of authorized person E-RATE PROGRAM MANAGER	
31a. Street Address, P.O Box or Route Number 125 S CLARK ST 3RD FLOOR CHICAGO, IL 60603	
31b. Telephone number of authorized person: (773) 553-1352	
31c. Fax number of authorized person: (773) 553-1368	
31d. E-mail of authorized person: pdflovers@cps.k12.il.us	
31e. Name of authorized person's employer: CHICAGO PUBLIC SCHOOLS	
ATTENTION: If you are signing Form 470 using the PIN assigned to you by SLD, you are reminded that using the PIN is equivalent to your handwritten signature on the form. Your use of the PIN to affirm these certifications means that should they prove untrue, you will be held to the same enforcement standards as those who affirm the certifications on paper. Also, by using the PIN, you are affirming that you have the authority to make these certifications and represent the entity featured in Block One of this funding request.	
Please Check to affirm your compliance <input checked="" type="checkbox"/>	

Form 470 Application Number:

**CHICAGO PUBLIC SCHOOLS
125 S CLARK ST, 3RD FLOOR
CHICAGO, IL 60603-**

Service provider involvement with preparation or certification of a Form 470 can taint the competitive bidding process and result in the denial of funding requests.
For more information, refer to the SLD web site at
www.sl.universalservice.org or call the SLD Client Service Bureau at 1-888-203-8100.

NOTICE: Section 54.504 of the Federal Communications Commission's rules requires all schools and libraries ordering services that are eligible for and seeking universal service discounts to file this Description of Services Requested and Certification Form (FCC Form 470) with the Universal Service Administrator. 47 C.F.R. § 54.504. The collection of information stems from the Commission's authority under Section 254 of the Communications Act of 1934, as amended. 47 U.S.C. § 254. The data in the report will be used to ensure that schools and libraries comply with the competitive bidding requirement contained in 47 C.F.R. § 54.504. All schools and libraries planning to order services eligible for universal service discounts must file this form themselves or as part of a consortium.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The FCC is authorized under the Communications Act of 1934, as amended, to collect the information we request in this form. We will use the information you provide to determine whether approving this application is in the public interest. If we believe there may be a violation or a potential violation of any applicable statute, regulation, rule or order, your application may be referred to the Federal, state, or local agency responsible for investigating, prosecuting, enforcing, or implementing the statute, rule, regulation or order. In certain cases, the information in your application may be disclosed to the Department of Justice or a court or adjudicative body when (a) the FCC; or (b) any employee of the FCC; or (c) the United States Government is a party of a proceeding before the body or has an interest in the proceeding. In addition, information provided in or submitted with this form or in response to subsequent inquiries may also be subject to disclosure consistent with the Communications Act of 1934, FCC regulations, the Freedom of Information Act, 5 U.S.C. § 552, or other applicable law.

If you owe a past due debt to the federal government, the information you provide may also be disclosed to the Department of the Treasury Financial Management Service, other Federal agencies and/or your employer to offset your salary, IRS tax refund or other payments to collect that debt. The FCC may also provide the information to these agencies through the matching of computer records when authorized.

If you do not provide the information we request on the form, the FCC may delay processing of your application or may return your application without action.

The foregoing Notice is required by the Paperwork Reduction Act of 1995, Pub. L. No. 104-13, 44 U.S.C. § 3501, et seq.

Public reporting burden for this collection of information is estimated to average 4 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing, and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the reporting burden to the Federal Communications Commission, Performance Evaluation and Records Management, Washington, DC 20554.

Done

Attachment 2 - USAC FCDL Denial Letter



Universal Service Administrative Company

Schools and Libraries Division



FUNDING COMMITMENT DECISION LETTER
(Funding Year 2011: 07/01/2011 - 06/30/2012)

February 14, 2012

Pamela D. Flowers
CHICAGO PUBLIC SCHOOLS
125 S CLARK ST, 3RD FLOOR
CHICAGO, IL 60603

Re: Form 471 Application Number: 819303
Billed Entity Number (BEN): 135749
Billed Entity FCC RN: 0008008971
Applicant's Form Identifier: FY11-471-IC2A-CPS

Thank you for your Funding Year 2011 application for Universal Service Support and for any assistance you provided throughout our review. The current status of the funding request(s) in the Form 471 application cited above and featured in the Funding Commitment Report(s) (Report) at the end of this letter is as follows.

- The amount, \$554,852.16 is "Denied."

Please refer to the Report following this letter for specific funding request decisions and explanations. The Universal Service Administrative Company (USAC) is also sending this information to your service provider(s) so preparations can begin for implementing your approved discount(s) after you file FCC Form 486, Receipt of Service Confirmation Form. A guide that provides a definition for each line of the Report is available in the Reference Area of our website.

NEXT STEPS

- Work with your service provider to determine if you will receive discounted bills or if you will request reimbursement from USAC after paying your bills in full
- Review technology planning approval requirements
- Review CIPA requirements
- File Form 486
- Invoice USAC using the Form 474 (service provider) or Form 472 (Billed Entity applicant) - as products and services are being delivered and billed

TO APPEAL THIS DECISION:

You have the option of filing an appeal with the SLD or directly with the Federal Communications Commission (FCC).

If you wish to appeal a decision in this letter to USAC, your appeal must be received by USAC or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and (if available) email address for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Include the following to identify the letter and the decision you are appealing:
 - Appellant name,
 - Applicant name and service provider name, if different from appellant,
 - Applicant BEN and Service Provider Identification Number (SPIN),
 - Form 471 Application Number 819303 as assigned by USAC,
 - "Funding Commitment Decision Letter for Funding Year 2011," AND
 - The exact text or the decision that you are appealing.

3. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep a copy of your entire appeal, including any correspondence and documentation.
4. If you are the applicant, please provide a copy of your appeal to the service provider(s) affected by USAC's decision. If you are the service provider, please provide a copy of your appeal to the applicant(s) affected by USAC's decision.
5. Provide an authorized signature on your letter of appeal.

To submit your appeal to USAC by email, email your appeal to appeals@sl.universalservice.org. USAC will automatically reply to incoming emails to confirm receipt.

To submit your appeal to USAC by fax, fax your appeal to (973) 599-6542.

To submit your appeal to USAC on paper, send your appeal to:

Letter of Appeal
Schools and Libraries Division - Correspondence Unit
30 Lanidex Plaza West
PO Box 685
Parsippany, NJ 07054-0685

If you wish to appeal a decision in this letter to the FCC, you should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received by the FCC or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. We strongly recommend that you use the electronic filing options described in the "Appeals Procedure" posted in the Reference Area of our website. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554.

OBLIGATION TO PAY NON-DISCOUNT PORTION

Applicants are required to pay the non-discount portion of the cost of the products and/or services to their service provider(s). Service providers are required to bill applicants for the non-discount portion. The FCC stated that requiring applicants to pay their share ensures efficiency and accountability in the program. If USAC is being billed via the FCC Form 474, the service provider must bill the applicant at the same time it bills USAC. If USAC is being billed via the FCC Form 472, the applicant pays the service provider in full (the non-discount plus discount portion) and then seeks reimbursement from USAC. If you are using a trade-in as part of your non-discount portion, please refer to our website for more information.

NOTICE ON RULES AND FUNDS AVAILABILITY

Applicants' receipt of funding commitments is contingent on their compliance with all statutory, regulatory, and procedural requirements of the Schools and Libraries Program. Applicants who have received funding commitments continue to be subject to audits and other reviews that USAC and/or the FCC may undertake periodically to assure that funds that have been committed are being used in accordance with all such requirements. USAC may be required to reduce or cancel funding commitments that were not issued in accordance with such requirements, whether due to action or inaction, including but not limited to that by USAC, the applicant, or the service provider. USAC, and other appropriate authorities (including but not limited to the FCC), may pursue enforcement actions and other means of recourse to collect improperly disbursed funds. The timing of payment of invoices may also be affected by the availability of funds based on the amount of funds collected from contributing telecommunications companies.

Schools and Libraries Division
Universal Service Administrative Company

FUNDING COMMITMENT REPORT
Billed Entity Name: CHICAGO PUBLIC SCHOOLS
BEN: 135749
Funding Year: 2011

Comment on RAL corrections: MR1: Form 471, Block 1 was modified in accordance with applicant request. <><><><><> MR2: 71744 GALE ELEMENTARY and 70312 AVONDALE ELEMENTARY have been removed from Block 4 Worksheet 1378779 at the request of the applicant. <><><><><> MR3: 70542 GALE ACADEMY has been added to Block 4 Worksheet 1378779 at the request of the applicant. <><><><><> DR1: The Form 470 that established the competitive bidding process for this FRN did not include service of this type; therefore it does not meet the 28 day competitive bidding requirement.

Form 471 Application Number: 819303
Funding Request Number: 2229423
Funding Status: Not Funded
Category of Service: Internal Connections
Form 470 Application Number: 750890000853166
SPIN: 143024292
Service Provider Name: Quantum Crossings, LLC
Contract Number: 10-250045
Billing Account Number: N/A
Multiple Billing Account Numbers: N
Service Start Date: 07/01/2011
Service End Date: N/A
Contract Award Date: 03/24/2011
Contract Expiration Date: 06/30/2012
Shared Worksheet Number: 1378779
Number of Months Recurring Service Provided in Funding Year: 12
Annual Pre-discount Amount for Eligible Recurring Charges: \$.00
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$616,502.40
Pre-discount Amount: \$616,502.40
Discount Percentage Approved by the USAC: 90%
Funding Commitment Decision: \$0.00 - Svcs. not requested on F. 470
Funding Commitment Decision Explanation: DR1: The Form 470 that established the competitive bidding process for this FRN did not include service of this type; therefore it does not meet the 28 day competitive bidding requirement.

FCDL Date: 02/14/2012
Wave Number: 034
Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2012
Consultant Name: Winston Himsworth
Consultant Number (CRN): 16060891
Consultant Employer: Erate Central



USAC

Universal Service Administrative Company
Schools and Libraries Division

Correspondence Unit

30 Lanidex Plaza West

PO Box 685

Parsippany, NJ 07054-0685

TIME SENSITIVE MATERIAL

00030

Pamela D. Flowers

CHICAGO PUBLIC SCHOOLS

125 S CLARK ST, 3RD FLOOR

CHICAGO, IL 60603